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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 28 October 2004 from the Permanent Mission of Latvia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Latvia to the United Nations presents its compliments to the Chairman of the Committee and has the honour to submit a report on the implementation of Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 28 October 2004 from the Permanent Mission of Latvia to the United Nations addressed to the Chairman of the Committee

Report of the Republic of Latvia on the implementation of Security Council resolution 1540 (2004)

As Latvia is a member of the EU, reference is made to the EU Common Report that will be transmitted to the UNSC 1540 Special Committee separately. This EU Report covers areas of EU and Community competences and activities in relation to UNSC Resolution 1540 and should be read in conjunction with this national report.

1. The unanimous adoption of Security Council Resolution 1540 on 28 April 2004 was a historic event. This was the first Security Council resolution to address the threat that proliferation of weapons of mass destruction and their means of delivery, in particular by non-state actors, poses to international peace and security.

2. The Republic of Latvia has taken a wide range of legislative and executive measures that ensure compliance with SCR 1540. We continuously review our policies, with a view to establishing what further measures may be necessary.

Legislative Action
The Republic of Latvia has a range of legislative measures in place to prevent the proliferation of WMD.

Detailed responses as to how Latvia's legislative framework relates to specific issues raised in SCR 1540 are set below.

In the European Union
The European Council in December 2003 approved a Strategy for Preventing the Proliferation of WMD, which the EU is in the process of implementing.

International instruments
1. The Republic of Latvia is a State-party to all the major non-proliferation agreements and conventions. It has signed and ratified:
Treaty on the Non-Proliferation of Nuclear Weapons (1992),
Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (1996),
Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (1997),
Supplementary Protocol of Convention on the Prohibition of Use or Limitation of Certain Kinds of Weapons Regarded as Weapons of Mass Destruction or Nonselective Action (1997),
Agreement with the International Atomic Energy Agency on the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (1993),
Protocol Additional to the Agreement between Latvia and the IAEA for the Application of Safeguards (2000),
Comprehensive Nuclear Test Ban Treaty (2001).

2. Latvia follows non-proliferation objectives persistently and vigorously, specifically through its export control policy. Latvia is a member state to the Nuclear Suppliers Group since 1996 and Australia Group since 2004. Latvia has submitted its membership application for the Wassenaar Arrangement and Missile Technology Control Regime.

3. Latvia also supports the Proliferation Security Initiative (PSI) as a tool that aims to prevent trafficking in WMD and related material by both state and non-state actors.

Comments in relation to the specific issues raised by the UNSCR 1540:

Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

The Republic of Latvia does not provide any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. Such support is penalized under the Criminal Law.

Operative Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them.

Action taken

1.

- Obligations under CWC and BTWC are enacted in the law of the Republic of Latvia
- The "Law on Circulation of Strategic goods" (May 1, 2004). Control over the circulation of strategic goods in accordance with national and international interests and international requirements for monitoring their export, import and transit, in order to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery.
- Article 73 of the Criminal Law (April 1, 1999) on Manufacture, Amassment, Deployment and Distribution of Weapons of Mass Destruction. For a person who commits manufacture, amassment, deployment or distribution of nuclear, chemical, biological, bacteriological, toxic or other weapons of mass destruction, the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than three and not exceeding twenty years.

2.

- Criminal Law incorporates legal provision for the suppression of terrorism.
  The first paragraph of Section 88 of the Criminal Law defines the concept of terrorism and determines liability for that. The second paragraph of the said Section states the penalty not only for the offences mentioned in the first paragraph, but also for threats to commit such acts. Criminal Law defines terrorism as a serious crime against the interests of the State. The

maximum applicable sentence for terrorism, in accordance with Section 88, is life imprisonment with confiscation of property.

- The suppression of the financing of terrorism falls under the "Law on Prevention of the Laundering of the Proceeds from Crime". In accordance with this law and in conjunction with international obligations, the Cabinet of Ministers has elaborated and approved Regulation on "Lists of Persons Suspected for Commitment of Terrorism or Persons Involved in Commitment of Terror Attacks Issued by States of International Organizations". The control over these proceeds is realized by the Service for the Prevention of the Laundering of the Proceeds of Crime. On June 20, 2002 amendments to a number of Articles of the law, "On Prevention of Laundering of Proceeds derived from Criminal Activity" were passed. One of the amendments authorized the appropriate authorities to issue orders to stop debit operations of funds in the client's account or transfer of other property, for a period of not more than six months, to persons who, due to suspicions on having committed acts of terrorism, are included in lists of such persons compiled by other countries, international organizations or Law enforcement agencies of Latvia.
- The suppression of terrorism also falls under Section 89[1] of the Criminal Law. This section sets the liability for the establishment of a criminal organisation, providing that not only persons who have established, lead or participated in the commission of especially serious crimes against State interests, but also persons who are aware of a criminal organisation's goals and intentionally involve themselves in this organisation or in its substructures, shall be liable in accordance with this Section. The financing of terrorism also falls under this Section, because if a person provides financial support to this kind of organisation, he/she has intentionally involved him/herself in this criminal organisation.

Planned action

The Republic of Latvia is considering what further action may be necessary.

Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

See below under OP3b

b) Develop and maintain appropriate effective physical protection measures;

Action taken

- The "Law on Circulation of Strategic goods" (May 1, 2004). Control over the circulation of strategic goods in accordance with national and international interests and international requirements for monitoring their export, import and transit, in order to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery.
- According to the "Law on Circulation of Strategic goods", Environmental State Inspectorate is responsible for the control of the chemicals included in the Schedules of the CWC. Starting

from 1997 The Environmental State Inspectorate has submitted annual reports to the OPCW regarding the chemicals included in the CWC Schedules;

- "Act on Radiation Safety and Nuclear Safety" (in force since November 21, 2000) states that the Ministry of Environment and the Radiation Safety Center are responsible for the control in the field of nuclear and radiation safety. The Law also provides that practices involving ionizing radiation sources may only be conducted upon receipt of a special permit (license);
- According to the "Act on Radiation Safety and Nuclear Safety" the following Regulations of the Cabinet of Ministers were passed:
    1) Regulations No. 398 on the Procedure Governing Activities Involving Nuclear Materials, Related Materials and Equipment of 24 April. 2004;
    2) Regulations No. 508 on Physical Protection Requirements for Sources of Ionising Radiation of 4 November 2002;
    3) Regulations No. 260 on Radiometric Control of Cargo and Goods on the State Border of 25 June 2002
- Since December 6, 2002 Latvia is a state party to the Convention on the Physical Protection of Nuclear Material

Planned action

The Republic of Latvia is considering what further action may be necessary.

c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

Action taken

- The "Law on Circulation of Strategic goods" (May 1, 2004). Control over the circulation of strategic goods in accordance with national and international interests and international requirements for monitoring their export, import and transit, in order to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery;
- European Council Regulation (EC) No. 1334/2000 with regard to the list of controlled dual-use items and technology when exported;
- Regulation of the Cabinet of Ministers No. 467 "Order in which documentation of strategic goods is issued or denied" of 29 April, 2004;
- Regulation of the Main Customs Service No. 1161, 2004 "On control of imports, exports and transit of Strategic Goods in the institutions subordinated to the Main Customs Service" of 30 July, 2004;
- Main Customs Service is involved in various projects aimed at increasing international cooperation and improvement of the system of control of imports, exports and transit of strategic goods

Planned action

The Republic of Latvia is considering what further action may be necessary.

d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations

Action taken

Legal Basis

The legal basis for control of export, import and transit of strategic goods is made up by the following normative acts:

-"Law on Circulation of Strategic goods" of May 1, 2004. Designed to ensure control over the circulation of strategic goods in accordance with national and international interests and international requirements for monitoring their export, import and transit.

-Cabinet of Minister's Regulations No. 429 of December 23, 1997, "Founding Law of the Control Committee of Strategic Goods"

-Cabinet of Minister's Regulations of April 29, 2004, "Regulations on Control of Strategic Goods and licenses"

- Resolution of the Control Committee of Strategic Goods of February 26, 2002, "On Lists of Strategic goods"

Export Control System in Latvia

Latvian Government in 1995 introduced export, import and transit control system of strategic goods based on the guidelines of Australia Group (AG), Nuclear Suppliers Group (NSG) and Missile Technology Control Regime (MTCR). The objective of Latvia's export control policy is non-proliferation of weapons of mass destruction and the means of their delivery.

Committee for monitoring strategic goods was also established in 1995. This Committee is made up of representatives of the Ministry of Foreign Affairs, Ministry of Defense, Ministry of Interior, Ministry of the Environment, Ministry of Economy, the National Revenue Service, the Main Customs Service, the State Police, Security Police and Constitutional Defense Bureau, appointed by the Cabinet of Ministers. The Chairperson of the Committee is the State Secretary of the Ministry of Foreign Affairs. The Control Committee of Strategic Goods of the Republic of Latvia is the institution in charge of controlling circulation of strategic goods in the territory of the Republic of Latvia, by improving the monitoring system of manufacture, storing, use, export, import and transit of strategic goods in Latvia, and issuing licenses for transactions in export, import and transit of strategic goods.

The "Law on Circulation of Strategic goods" provides that all transactions involving strategic goods require export, import or transit license for strategic goods. These licenses are issued by the Control Committee of Strategic Goods of the Republic of Latvia.

The licensing agency preparing licenses for export, import and transit is the Division of Export Control of strategic goods of the Ministry of Foreign Affairs of the Republic of Latvia. This Division issues Committee approved licenses and import certificates and end-use certificates to legal persons; provides information on compliance of export, import and transit goods to lists of strategic goods; monitors manufacture, storage, use and trade of strategic goods; has established and maintains a data base of documents related to strategic goods and their circulation, and providing necessary information to traders and Government institutions.

Use of end-user certificate is one of the preconditions for export and transit through the territory of the Republic of Latvia. The requirements and conditions of this of end-user certificate are drawn up in accordance with the requirements of EU Code of Conduct and are included in the Law on Circulation of Strategic Goods (in force from 1st of May, 2004).

Criminal/civil penalties for violations of export control laws and regulations

When signing the license application, the entrepreneur certifies with his/her signature that according to information at his/her disposal, the goods will not be used in relation to arms of mass destruction or devices for their delivery, and also that he is aware of the regulations controlling strategic goods in the Republic of Latvia and the liability for violating these regulations or providing false information.

The Latvian Code of Administrative Violations provides for liability:

- "Article 181. Violation of Regulations on the acquisition, registration, possession, transporting, moving, carrying, use, import into the Republic of Latvia and export from the Republic of Latvia of strategic goods committed by physical persons holding appropriate permits.
  Cases of violation of Regulations on the acquisition, registration, possession, transporting, moving, carrying, use, import into the Republic of Latvia and export from the Republic of Latvia of strategic goods committed by physical persons holding appropriate permits shall be fined up to **Two hundred and fifty Lats or cancellation of the right to possess and carry firearms for a period of one to three years.** (Text of the Law as at July 19, 1995, revised by the Law of June 14, 2001 - The Reporter, 1995, No. 17).
- "Article 183. Violation of Regulations on the acquisition, registration, possession, transporting, moving, carrying, use, import into the Republic of Latvia and export from the Republic of Latvia of strategic goods for irregular purposes committed by employees of businesses (companies), institutions and organizations holding appropriate permits.
  Cases of violation of Regulations on the acquisition, registration, possession, transporting, moving, carrying, use, import into the Republic of Latvia and export from the Republic of Latvia of strategic goods for irregular purposes committed by employees of businesses (companies), institutions and organizations holding appropriate permits **shall be fined up to Two hundred and fifty Lats or cancellation of the right to possess and carry firearms or special devices for a period of one to three years.** (Text as revised by the Law of June 14, 2001)."

The Latvian Criminal Law provides for liability:

- Article 233 of the Criminal Law provides for punishment for the violation of regulations on the sale of strategic goods of a **prison sentence for up to four years or a fine up to eighty minimum monthly salaries, and depriving of the right to engage in certain types of business for a time of up to five years, or without.** The manufacture, acquisition, possession, carrying, transporting or selling of strategic goods without the appropriate permit is **punishable by imprisonment of up to ten years, or jail, and depriving of the right to engage in certain types of business for a time of two to five years, or without it.**
- Careless possession, carrying, transport or shipping of strategic goods in violation of regulations, if by so doing an opportunity is given to another person to obtain such strategic goods, is punishable by **a prison sentence of up to two years or jail, or a fine up to fifty minimum monthly salaries, and deprivation of the right to engage in certain types of business for a period of up to three years.** In the case of a similar offence causing grave consequences is punishable by **a prison sentence of up to five years or a fine of up to a hundred minimum monthly salaries, and deprivation of the right to engage in certain types of business for a period of up to five years.** *(Article 236 of the Criminal Law)*
- Violation of regulations or procedure for the use of strategic goods, if committed by a person permitted to acquire, possess or carry strategic goods and if such violation has caused grave consequences, **shall be punishable by a prison sentence of up to five years or jail or**

forced labour or a fine of up to one hundred minimum monthly salaries. *(Article 237 of the Criminal Law)*

- In addition, Articles of the Criminal Law on committing various crimes provide that the use of any of the strategic goods in committing such crimes is considered an aggravating circumstance.
- Clause 3 of Article 190 of the Criminal Law provides for liability in smuggling of strategic goods, **carrying a prison sentence of eight to fifteen years, with confiscation of property.** (Revision of the Law of October 17, 2002, effective 21.11.2002).

Planned action

The Republic of Latvia is considering what further action may be necessary.

Operative Paragraph 5

Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons.

Action taken

The Republic of Latvia is a state party to the Nuclear Non-Proliferation Treaty (NPT), the Chemical Weapons Convention (CWC) and the Biological and Toxin Weapons Convention (BTWC). Latvia is a member to the International Atomic Energy Agency (IAEA) and the Organization for the Prohibition of Chemical Weapons (OPCW). Obligations under the above mentioned conventions and organizations are enacted in the law of the Republic of Latvia.

Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists.

Action taken

The Republic of Latvia is a strong supporter of effective multilateral export control regimes. Latvia is a member state to the Nuclear Suppliers Group and Australia Group. Latvia has submitted its membership application for the Wassenaar Arrangement and Missile Technology Control Regime. Latvia maintains and regularly updates detailed national export control lists.

Operative Paragraph 8

a) To promote the universal adoption and full implementation, and where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Action taken
- EU Common Position, November 2003, on the universalization of the main multilateral non-proliferation agreements (CWC, BTWC, NPT)
- Additional Protocol as a condition of supply: EU lobbying for universalization of CSA and Additional Protocol
- Inclusion of non-proliferation clause in EU-third country agreements

b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

Action taken
- The "Law on Circulation of Strategic goods" (May 1, 2004). Control over the circulation of strategic goods in accordance with national and international interests and international requirements for monitoring their export, import and transit, in order to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery
- Nuclear, biological, chemical offences are covered by Articles 73 and 88 of the Criminal Law of the Republic of Latvia

Planned action
- Latvia is considering what further action may be required

c) To renew and fulfill their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

Action taken
- The Republic of Latvia as a state party continues to provide support for the aims and activities of the IAEA, the OPCW and the BTWC.

d) To develop appropriate ways to work and inform industry and the public regarding their obligations under such laws.

Action taken
- The Control Committee of Strategic Goods regularly informs firms dealing with import, export or transit of strategic goods regarding their obligations. Updates are provided regarding amendments in the legislation or lists of strategic goods;
- It is also planned to have a section on import, export or transit of strategic goods in the near future under the web site of the Ministry of Foreign Affairs.
- EU WMD Strategy;

Planned action
- Latvia is considering what further action may be necessary

Operative Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical and biological weapons, and their means of delivery;

Action taken

- Latvia continues to promote dialogue, as well as regional and international cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical and biological weapons, and their means of delivery

Operative Paragraph 10

Further to counter that threat, calls upon all states, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials.

Action taken

- Latvia supports the Proliferation Security Initiative (PSI) as a tool that aims to prevent trafficking in WMD
- Latvia cooperates with other States in order to improve its control system so as to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials

Planned action

- Latvia is still considering what further action may be necessary